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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11
12 Case No. **2011-159**

In the Matter of the Accusation Against:

13 **ROXANNE MARIE HUNTER AKA**
ROXANNE M. ALLEY
14 **29092 Mesa Crest Way**
Menifee, CA 92584

A C C U S A T I O N

15 **Registered Nurse License No. 326915**
16 **Public Health Nurse License No. 45175**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 2. On or about March 31, 1981, the Board of Registered Nursing issued Registered
25 Nurse License Number 326915 to Roxanne Marie Hunter aka Roxanne M. Alley (Respondent).
26 The Registered Nurse License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on April 30, 2011, unless renewed.
28

3. On or about September 19, 1989, the Board of Registered Nursing issued Public Health Nurse License Number 45175 to Roxanne Marie Hunter aka Roxanne M. Alley (Respondent). The Public Health Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2011, unless renewed.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on a license.

7. Section 2811(b) of the Code provides, in part, that each license not renewed shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee and upon submission of proof of the applicant's qualifications.

STATUTORY PROVISIONS

8. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

1 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially
3 related to the qualifications, functions, or duties of the business or profession for which the
4 license was issued.

5 10. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or
8 to suspend or revoke a license or otherwise take disciplinary action against a
9 person who holds a license, upon the ground that the applicant or the licensee has
10 been convicted of a crime substantially related to the qualifications, functions, and
11 duties of the licensee in question, the record of conviction of the crime shall be
12 conclusive evidence of the fact that the conviction occurred, but only of that fact,
13 and the board may inquire into the circumstances surrounding the commission of
14 the crime in order to fix the degree of discipline or to determine if the conviction is
15 substantially related to the qualifications, functions, and duties of the licensee in
16 question.

17 As used in this section, "license" includes "certificate," "permit,"
18 "authority," and "registration."

19 11. Section 2761 of the Code states:

20 The board may take disciplinary action against a certified or licensed nurse
21 or deny an application for a certificate or license for any of the following:

22 (a) Unprofessional conduct, which includes, but is not limited to, the
23 following:

24

25 (f) Conviction of a felony or of any offense substantially related to the
26 qualifications, functions, and duties of a registered nurse, in which event the record
27 of the conviction shall be conclusive evidence thereof.

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29 12. Section 2762 of the Code states:

30 In addition to other acts constituting unprofessional conduct within the
31 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for
32 a person licensed under this chapter to do any of the following:

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(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

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13. Section 2765 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

14. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

15. California Code of Regulations, title 16, section 1445 states:

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the license has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(July 7, 2010 Convictions for DUI and Child Endangerment on February 17, 2010)

17. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the Code in that she was convicted of crimes that are substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about July 7, 2010, in a criminal proceeding entitled *People of the State of California v. Roxanne Marie Hunter*, in the Riverside County Superior Court, case number SWM10003250, Respondent was convicted on her plea of guilty of violation of Vehicle Code

1 section 23152(a), driving under the influence of alcohol, Vehicle Code section 23152(b), driving
2 while having a blood alcohol content of .08 percent or more by weight, and violation of Penal
3 Code section 273a(a), child endangerment by caretaker.

4 b. The circumstances that led to the conviction were that on or about February
5 17, 2010, officers from the Murrieta Police Department received a call from a witness at the
6 Mobil Gas Station in the City of Murrieta, California, reporting a possible drunk driver in a blue
7 Hyundai, with a child in the back seat. The witness reported that she saw an intoxicated female
8 with a young child in the back seat of the car. The intoxicated female was later identified as
9 Respondent. The witness reported that when she attempted to stop Respondent from driving,
10 Respondent became irate and drove away. A second reporting witness contacted the police
11 department and reported seeing a possible drunk driver in the same blue Hyundai. This witness
12 followed Respondent's vehicle until police arrived. When the Hyundai was located by the police
13 at a four way stop, an officer saw that Respondent failed to use her turn signal and initiated a
14 traffic stop with his overhead lights.

15 c. Respondent's vehicle slowed to a complete stop and then began to inch
16 forward. About ten seconds later, her vehicle continued to move forward at a speed of five miles
17 per hour. The officer again initiated his overhead lights and siren. Respondent's vehicle
18 continued to drive forward at about five miles per hour. In total, Respondent took approximately
19 2 minutes to completely stop her vehicle. When the officer approached Respondent's vehicle, he
20 noticed a female child in the back seat of the vehicle. The child was later identified as
21 Respondent's granddaughter, M.B. As the officer walked toward the back bumper, Respondent's
22 vehicle began rolling forward. When the officer yelled at Respondent to put the vehicle in park,
23 the vehicle then started to roll backwards. Respondent hit the brakes and turned the vehicle off
24 without placing it in park. The vehicle continued to roll backwards when Respondent let her foot
25 off the break. The officer noted that Respondent appeared confused as he directed her to put the
26 vehicle in park.

27 d. During the interview with Respondent, the officer noticed that she had
28 extremely slurred speech to the point that the officer could not understand what she was saying.

1 Respondent moved very slowly and was sluggish. Respondent also had bloodshot and watery
2 eyes and her facial muscles appeared droopy. When Respondent exited the vehicle, she used the
3 vehicle to support herself, then let go and stumbled forward. The officer held onto Respondent's
4 arms in order to keep her from falling. After Respondent unsuccessfully performed field sobriety
5 tests, the officer placed Respondent under arrest for driving under the influence and child
6 endangerment. Another officer searched Respondent's vehicle and discovered 4 empty 8 oz
7 bottles of Turning Leaf wine coolers. The bottles were cold to the touch. One of the bottles was
8 located on the center console while the other bottles were on the floor beneath M.B.'s feet.
9 Another 4 pack of the same wine coolers which were cold to the touch were discovered, however,
10 these were unopened.

11 e. As a result of her convictions, Respondent was sentenced to summary
12 probation for the period of 48 months, ordered to serve 45 days in custody, required to pay all
13 fines, fees and restitution, ordered to attend and complete the First Offender DUI Program for the
14 period of 9 months, required to enroll and complete Child Abuse classes, and ordered to comply
15 with the terms of a Protective Order protecting M.B.

16 SECOND CAUSE FOR DISCIPLINE

17 (Use of Alcohol in a Manner Dangerous to Self or Others)

18 18. Respondent is subject to disciplinary action under section 2762(b) of the Code in
19 that on or about February 17, 2010, Respondent used alcohol to an extent as to be dangerous to
20 herself or others, as set forth in paragraph 17, above, which is incorporated herein by reference.

21 THIRD CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct -- Alcohol Related Conviction)

23 19. Respondent is subject to disciplinary action under 2762(c) of the Code in that on
24 or about July 7, 2010, Respondent was convicted of a criminal offense involving alcohol, as set
25 forth in paragraph 17 above, which is incorporated herein by reference.

26 PRAAYER

27 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
28 and that following the hearing, the Board of Registered Nursing issue a decision:

1 1. Revoking or suspending Registered Nurse License Number 326915, issued to
2 Roxanne Marie Hunter aka Roxanne M. Alley;

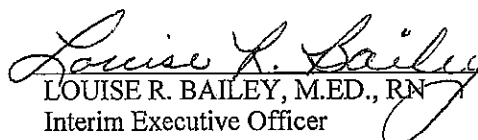
3 2. Revoking or suspending Public Health Nurse License Number 45175, issued to
4 Roxanne Marie Hunter aka Roxanne M. Alley;

5 3. Ordering Roxanne Marie Hunter aka Roxanne M. Alley to pay the Board of
6 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
7 pursuant to Business and Professions Code section 125.3;

8 4. Taking such other and further action as deemed necessary and proper.

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11 DATED: _____

8/30/10


LOUISE R. BAILEY, M.E.D., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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